

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

FILED BY CLERK

NOV 29 2007

COURT OF APPEALS  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2007-0216-PR
	)	DEPARTMENT A
v.	)	
	)	<u>MEMORANDUM DECISION</u>
JESSIE LABRANNA,	)	Not for Publication
	)	Rule 111, Rules of
Petitioner.	)	the Supreme Court
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20033531

Honorable Michael J. Cruikshank, Judge

REVIEW GRANTED; RELIEF DENIED

\_\_\_\_\_  
Jessie Labranna

\_\_\_\_\_  
Douglas  
In Propria Persona

\_\_\_\_\_  
H O W A R D, Presiding Judge.

¶1 Petitioner Jessie Labranna was convicted after a jury trial in 2003 of theft of means of transportation and possession of burglary tools. The trial court sentenced Labranna to concurrent, partially aggravated prison terms of eight years for theft and three years for possessing burglary tools, terms that were enhanced with one prior felony conviction. We rejected all of Labranna's arguments on appeal, except his claim that his

sentence for possessing burglary tools exceeded the maximum prescribed by statute; we vacated that sentence and remanded the case to the trial court for resentencing. *State v. Labranna*, No. 2 CA-CR 2004-0172 (memorandum decision filed Sept. 13, 2005). On remand, the trial court imposed a concurrent, partially aggravated, two-year prison term for possessing burglary tools. Subsequently, after post-conviction counsel notified the court that she could find no legal issues to raise on his behalf, Labranna filed a pro se petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. The trial court dismissed the petition and denied Labranna's motion for reconsideration without a hearing, and this petition for review followed. We will not disturb a trial court's ruling on a petition for post-conviction relief absent an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find none here.

¶2 At a hearing in April 2004, which Labranna did not attend, the state requested a brief continuance to obtain additional evidence to prove Labranna had historical prior felony convictions, a request the trial court granted over objection from Labranna's attorney. At the time set for a prior convictions hearing, which took place one week later, and which Labranna attended in person, Labranna admitted he had one prior conviction in exchange for the state's dismissal of the allegation of the other convictions. At that time, counsel expressly waived, on Labranna's behalf and in his presence, any objection to the propriety of using the 1992 conviction based on the fact that the conviction had occurred more than five years earlier. *See* A.R.S. § 13-604(W)(2)(c). In addition, the trial court explained to

Labranna, in detail, the sentencing ranges he faced both with and without the use of the prior conviction to enhance the sentence and explained to him that by admitting the prior conviction, he was waiving the right to a trial on that allegation.<sup>1</sup> Before accepting his admission, the trial court asked Labranna if he had any questions, to which he replied, “Not really, I trust [counsel] that he explained to me how [the admission of the prior conviction] works and everything else, sir,” after which the court found Labranna’s “admission to be knowingly, intelligently and voluntarily made and that there’s a factual basis for the admission.”

¶3 On review, Labranna argues that trial counsel was ineffective and that the judge, both attorneys, and the court reporter had conspired to suggest he had attended the prior convictions hearing and had admitted a conviction that was more than five years old, when in fact he had not been present at that proceeding.<sup>2</sup>

---

<sup>1</sup>In its minute entry dismissing Labranna’s petition for post-conviction relief, the trial court found that Labranna had “stated to this Court [at the prior convictions hearing] that no one had promised him the specific sentence that he would receive.” Although these precise words do not appear in the transcript of the prior convictions hearing, it is nonetheless clear from the court’s careful and lengthy explanation to Labranna of the sentencing ranges he faced both with and without his admission of a prior conviction, that Labranna understood the ramifications of his admission and the sentencing possibilities flowing from that admission, and he acknowledged, or at least conceded, that he had not been promised any specific sentence. *See Ariz. R. Crim. P. 17.3.*

<sup>2</sup>Labranna also argued in his petition for post-conviction relief that counsel had coerced him into admitting the prior conviction “in open court,” presumably at the prior convictions hearing, despite arguing that he did not attend that proceeding.

¶4 The same judge who had sentenced Labranna and conducted the prior convictions hearing concluded that Labranna had not raised a colorable claim of ineffective assistance of counsel and that, “[c]ontrary to Petitioner’s assertion, the record indicates that [Labranna] was present at his April 26, 2004 Priors Trial Hearing. At that time, Petitioner knowingly, intelligently, and voluntarily admitted one of his prior convictions.” *See* Ariz. R. Crim. P. 17.2, 17.3, and 17.6. Because the trial court denied relief in a detailed, thorough minute entry that clearly identified Labranna’s arguments and correctly ruled on them in a manner that will allow any court in the future to understand its resolution, we need not reiterate the court’s ruling. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). Although we grant the petition for review, we deny relief.

---

JOSEPH W. HOWARD, Presiding Judge

CONCURRING:

---

JOHN PELANDER, Chief Judge

---

J. WILLIAM BRAMMER, JR., Judge